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DEPARTMENT OF EDUCATION

34 CFR Chapter IV

Docket ID ED-2012-OVAE-0053

Proposed requirements, definitions, and selection criteria-
-Native American Career and Technical Education Program
(NACTEP)

Catalog of Federal Domestic Assistance (CFDA) Number:

84.101A

AGENCY: Office of Vocational and Adult Education,
Department of Education.

ACTION: Proposed requirements, definitions, and selection
criteria.

SUMMARY: The Assistant Secretary for Vocational and Adult
Education proposes requirements, definitions, and selection
criteria under the Native American Career and Technical
Education Program (NACTEP). The Assistant Secretary may
use these requirements, definitions, and selection criteria
for a competition in fiscal year (FY) 2013 and possibly in
later years. The requirements, definitions, and selection
criteria we propose in this notice are the same as those we
used in the notice inviting applications for the first
NACTEP competition we held in FY 2007 (see Federal Register

March 23, 2007 (72 FR 13770) (March 2007 notice)) following the enactment of the Carl D. Perkins Career and Technical Education Act of 2006 (Act). In the March 2007 notice, we established these requirements, definitions, and selection criteria pursuant to a waiver of rulemaking under the authority of section 457(d) of the General Education Provisions Act. Because the project period for NACTEP grants awarded in FY 2007 will end in September 2013, we are publishing the NACTEP requirements, definitions, and selection criteria for public comment. When published in final, these requirements, definitions, and selection criteria would govern the next NACTEP competition and possibly also subsequent NACTEP competitions.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How to Use This Site."

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about these proposed requirements, definitions, and selection criteria, address them to Gwen Washington, U.S. Department of Education, 400 Maryland Avenue SW., room 11076, Potomac Center Plaza, Washington, DC 20202-7241; or Linda Mayo, U.S. Department of Education, 400 Maryland Avenue SW., Room 11075, Potomac Center Plaza, Washington, DC 20202-7241.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Gwen Washington, by telephone: (202) 245-7790, or by email:

gwen.washington@ed.gov; or Linda Mayo, by telephone: (202) 245-7792, or by email: linda.mayo@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final requirements, definitions, and selection criteria, we urge you to identify clearly the specific proposed requirement, definition, or selection criterion that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed requirements, definitions, and selection criteria. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed requirements,

definitions, and selection criteria by accessing Regulations.gov. You may also inspect the comments in person in rooms 11076/11075, 550-12th Street, SW., Washington, DC, between 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the persons listed under FOR FURTHER INFORMATION CONTACT.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: Under NACTEP, the Secretary provides grants, cooperative agreements, or enters into contracts with Indian tribes, tribal organizations, or Alaska Native entities to improve career and technical education programs that are consistent with the purposes of the Act and that benefit Native Americans and Alaska Natives.

Program Authority: 20 U.S.C. 2301 et seq., particularly 2326 (a) - (g) .

PROPOSED REQUIREMENTS, DEFINITIONS, AND SELECTION CRITERIA:

Background:

Section 116 of the Act authorizes the Secretary to award grants, cooperative agreements, or enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to operate career and technical education projects that improve career and technical education for Native American and Alaska Native students. Bureau-funded schools are eligible under NACTEP, except for Bureau-funded schools proposing to use their awards to support secondary school career and technical education programs. Any Indian tribe, tribal organization, Alaska Native entity, or eligible Bureau-funded school may apply individually or as part of a consortium with one or more eligible tribes, tribal organizations, Alaska Native entities, or eligible Bureau-funded schools. (Eligible applicants seeking to apply for funds as a consortium must meet the requirements in 34 CFR 75.127-75.129, which apply to group applications.)

The Act also provides in the statement of purpose that programs funded under the Act should build on the efforts

of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including in preparation for high-skill, high-wage, or high-demand occupations in emerging or established professions. (20 U.S.C. 2301(1)) In addition, programs are required to provide technical assistance that promotes leadership, initial preparation, and professional development and improves the quality of career and technical education teachers, faculty, administrators, and counselors. (20 U.S.C. 2301(5)) Additionally, the Act's purpose section calls for supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree-granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries, as well as for providing, in conjunction with other education and training programs, individuals with opportunities throughout their lives to develop the knowledge and skills needed to keep the United States competitive. (20 U.S.C. 2301(6) and (7))

We are not including in this notice, or seeking public comment on, requirements or definitions contained in the Act, in Federal statutory provisions cross-referenced in

the Act, in the Education Department General Administrative Regulations (EDGAR), or in any other applicable, existing regulations. For the convenience of eligible applicants, in our notice announcing the next NACTEP competition we plan to discuss statutory program requirements and definitions, and key applicable regulatory provisions, as we did in the March 2007 notice inviting applications.

Proposed Requirements:

I. Demonstration of Eligibility:

(a) We propose that an eligible applicant (as determined by the Act) must include documentation in its application showing that it and, if appropriate, its consortium members are eligible to apply.

(b) As defined in the Indian Self-Determination and Education Assistance Act (ISDEA) (25 U.S.C. 450b(1)) the term "tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: provided, that in any case where a contract is let or grant

made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant. In accordance with this statutory definition, we propose that any tribal organization proposing to provide NACTEP services for the benefit of more than one Indian tribe must first obtain the approval of each Indian tribe it proposes to serve and must submit documentation of such approval with its NACTEP application and that documentation of tribal approval be a prerequisite to the awarding of a NACTEP grant to any tribal organization proposing to serve more than one Indian tribe.

II. Authorized Programs, Services, and Activities

Consistent with the Act, the Secretary proposes the following requirements, to align NACTEP with other authorized programs that require recipients of funds under the Act to develop challenging academic standards and improve career and technical education.

(a) Authorized programs. Section 116(e) of the Act requires the Secretary to ensure that activities funded under NACTEP "will improve career and technical education programs" (20 U.S.C. 2326(e)). Therefore, the Secretary proposes to award grants to carry out projects that--

(1) Propose organized educational activities offering a sequence of courses that--

(i) Provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(ii) Provide technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(iii) Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual. Projects may include prerequisite courses (other than remedial courses) that meet the definitional requirements of section 3(5) of the Act. (20 U.S.C. 2302(5)) In addition, at the secondary level, coherent and rigorous academic curriculum must be aligned with challenging academic content standards and student academic achievement standards in reading or language arts and in mathematics

that the State in which the applicant is located has established under the Elementary and Secondary Education Act, as amended (20 U.S.C. 6301 et seq.) Contacts for State ESEA programs may be found on the Internet at:
<http://www.ed.gov/about/contacts/state/index.html>.

(2) Develop new programs, services, or activities or improve or expand existing programs, services, or activities that are consistent with the purposes of the Act. In other words, the Department will support "expansions" or "improvements" that include, but are not limited to, the expansion of effective programs or practices; upgrading of activities, equipment, or materials; increasing staff capacity; adoption of new technology; modification of curriculum; or implementation of new policies to improve program effectiveness and outcomes.

(3) Fund a career and technical education program, service, or activity that--

(i) Is a new program, service, or activity that was not provided by the applicant during the instructional term (a defined period, such as a semester, trimester, or quarter, within the academic year) that preceded the request for funding under NACTEP;

(ii) Will improve or expand an existing career and technical education program; or

(iii) Inherently improves career and technical education.

Note: A program, service, or activity "inherently improves career and technical education" if it--

(a) Develops new career and technical education programs of study that will be approved by the appropriate accreditation agency;

(b) Strengthens the rigor of the academic and career and technical components of funded programs;

(c) Uses curriculum that is aligned with industry-recognized standards and will result in students attaining industry-recognized credentials, certificates, or degrees;

(d) Integrates academics (other than remedial courses) with career and technical education programs through a coherent sequence of courses to ensure learning in the core academic and career and technical subjects;

(e) Links career and technical education at the secondary level with career and technical education at the postsecondary level and facilitates students' pursuit of a baccalaureate degree;

(f) Expands the scope, depth, and relevance of curriculum, especially content that provides students with a comprehensive understanding of all aspects of an industry and a variety of hands-on, job-specific experiences; and

(g) Offers--

(1) Work-related experience, internships, cooperative education, school-based enterprises, entrepreneurship, community service learning, and job shadowing that are related to career and technical education programs;

(2) Coaching/mentoring, support services, and extra help for students after school, on weekends and/or during the summers, so they can meet higher standards;

(3) Career guidance and academic counseling for students participating in career and technical education programs;

(4) Placement services for students who have successfully completed career and technical education programs and attained a technical skill proficiency that is aligned with industry-recognized standards;

(5) Professional development programs for teachers, counselors, and administrators;

(6) Strong partnerships among grantees and local educational agencies, postsecondary institutions, community

leaders, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards and career and technical skills;

(7) The use of student assessment and evaluation data to improve continually instruction and staff development with the goal of increasing student achievement in career and technical education programs; or

(8) Research, development, demonstration, dissemination, evaluation and assessment, capacity-building, and technical assistance, related to career and technical education programs.

(b) Student stipends. In accordance with section 116(c)(2) of the Act, a portion of an award under this program may be used to provide stipends (as defined in the Definitions section of this notice) to one or more students to help meet the students' costs of participation in a NACTEP project. We propose the following procedures for determining student eligibility for stipends and appropriate amounts to be awarded as stipends:

(1) To be eligible for a stipend a student must--

(i) Be enrolled in a career and technical education project funded under this program;

(ii) Be in regular attendance in a NACTEP project and meet the training institution's attendance requirement;

(iii) Maintain satisfactory progress in his or her program of study according to the training institution's published standards for satisfactory progress; and

(iv) Have an acute economic need that--

(A) Prevents participation in a project funded under this program without a stipend; and

(B) Cannot be met through a work-study program.

(2) The amount of a stipend is the greater of either the minimum hourly wage prescribed by State or local law or the minimum hourly wage established under the Fair Labor Standards Act.

(3) A grantee may only award a stipend if the stipend combined with other resources the student receives does not exceed the student's financial need. A student's financial need is the difference between the student's cost of attendance and the financial aid or other resources available to defray the student's cost of participating in a NACTEP project.

(4) To calculate the amount of a student's stipend, a grantee would multiply the number of hours a student actually attends career and technical education instruction by the amount of the minimum hourly wage that is prescribed by State or local law, or by the minimum hourly wage that is established under the Fair Labor Standards Act.

Example: If a grantee uses the Fair Labor Standards Act minimum hourly wage of \$7.25 and a student attends classes for 20 hours a week, the student's stipend would be \$145 for the week during which the student attends classes ($\$7.25 \times 20 = \145.00).

Note: In accordance with applicable Department statutory requirements and administrative regulations, grantees must maintain records that fully support their decisions to award stipends and the amounts that are paid, such as proof of a student's enrollment in a NACTEP project, stipend applications, timesheets showing the number of attendance hours confirmed in writing by an instructor, student financial status information, and evidence that a student would not be able to participate in the NACTEP project without a stipend. (20 U.S.C. 1232f; 34 CFR 75.700-75.702; 75.730; and 75.731)

(5) An eligible student may receive a stipend when taking a course for the first time. However, generally a stipend may not be provided to a student who has already taken, completed, and had the opportunity to benefit from a course and is merely repeating the course.

(6) An applicant must include in its application the procedure it intends to use to determine student eligibility for stipends and stipend amounts, and its oversight procedures for the awarding and payment of stipends.

(c) Direct assistance to students. We propose that a grantee may provide direct assistance to students (as defined in this notice) if the following conditions are met:

(1) The recipient of the direct assistance is an individual who is a member of a special population and who is participating in the grantee's NACTEP project.

(2) The direct assistance is needed to address barriers to the individual's successful participation in that project.

(3) The direct assistance is part of a broader, more generally focused program or activity to address the needs of an individual who is a member of a special population.

Note: Direct assistance to individuals who are members of special populations is not, by itself, a "program or activity for special populations."

(4) The grant funds used for direct assistance must be expended to supplement, and not supplant, assistance that is otherwise available from non-Federal sources. (20 U.S.C. 2391(a)) For example, generally, a postsecondary educational institution could not use NACTEP funds to provide child care for single parents if non-Federal funds previously were made available for this purpose, or if non-Federal funds are used to provide child care services for single parents participating in non-career and technical education programs and these services otherwise would have been available to career and technical education students in the absence of NACTEP funds.

(5) In determining how much of the NACTEP grant funds it will use for direct assistance to an eligible student, a grantee must consider whether the specific services to be provided are a reasonable and necessary cost of providing career and technical education programs for special populations. However, the Secretary does not envision a circumstance in which it would be a reasonable and necessary expenditure of NACTEP project funds for a grantee

to use a majority of a project's budget to pay direct assistance to students, in lieu of providing the students served by the project with career and technical education.

III. Additional Proposed Program Requirements

(a) Career and technical education agreement. Any applicant that is not proposing to provide career and technical education directly to its students and proposes instead to use NACTEP funds to pay one or more qualified educational entities to provide education to its students must include with its application a written career and technical education agreement between the applicant and that entity. The written agreement must describe the commitment between the applicant and each educational entity and must include, at a minimum, a statement of the responsibilities of the applicant and the entity. The agreement must be signed by the appropriate individuals on behalf of each party, such as the authorizing official or president of a tribe or tribal organization, a college president, or a college dean.

(b) Evaluation Requirements. To help ensure the high quality of NACTEP projects and the achievement of the goals and purposes of section 116 of the Act, each grantee must budget for and conduct an ongoing evaluation of the

effectiveness of its NACTEP project. An independent evaluator must conduct the evaluation. The evaluation must--

(1) Be appropriate for the project and be both formative and summative in nature;

(2) Include--

(i) Applicable performance measures for NACTEP;

(ii) Qualitative and quantitative data with respect to--

(A) Academic and career and technical competencies demonstrated by the participants and the number and kinds of academic and work credentials acquired by individuals, including participation in programs providing skill proficiency assessments, industry certifications, or training at the associate degree level that is articulated with an advanced degree option;

(B) Enrollment, completion, and placement of participants by gender for each occupation for which training was provided;

(C) Job or work skill attainment or enhancement, including participation in apprenticeship and work-based learning programs, and student progress in achieving technical skill proficiencies necessary to obtain

employment in the field for which the student has been prepared, including attainment or enhancement of technical skills in the industry the student is preparing to enter;

(D) Activities during the formative stages of the project to help guide and improve the project, as well as a summative evaluation that includes recommendations for disseminating information on project activities and results;

(E) The number and percentage of students who obtained industry-recognized credentials, certificates, or degrees;

(F) If available, the outcomes of students' technical assessments, by type and scores; and

(G) The rates of attainment of a proficiency credential or certificate, in conjunction with a secondary school diploma.

(c) Project Effectiveness. Measure the effectiveness of the project, including:

(1) A comparison between the intended and observed results; and

(2) A demonstration of a clear link between the observed results and the specific treatment given to project participants.

(d) Dissemination. Measure the extent to which information about or resulting from the project was disseminated at other sites, such as through the grantee's development and use of guides or manuals that provide step-by-step directions for practitioners to follow when initiating similar efforts.

(e) Long-Term Impact. Measure the long-term impact of the project, such as, follow-up data on students' employment, sustained employment, promotions, and further/continuing education or training, or the impact the project had on tribal economic development or career and technical education activities offered by tribes.

Proposed Definitions:

We are proposing the following definitions for program terms not defined in the Act, by cross-references in the Act to other Federal statutes, or in EDGAR:

Acute economic need means an income that is at or below the national poverty level according to the latest available data from the U.S. Department of Commerce or the U.S. Department of Health and Human Services Poverty Guidelines.

Direct assistance to students means tuition, dependent care, transportation, books, and supplies that are

necessary for a student to participate in a project funded under this program.

Stipend means a subsistence allowance for a student that is necessary for the student to participate in a project funded under this program.

PROPOSED SELECTION CRITERIA:

The Assistant Secretary proposes the following selection criteria for evaluating an application under this program. We may apply one or more of these criteria in any year in which this program is in effect. We will announce the maximum possible points assigned to each criterion in the notice inviting applications, in the application package, or both.

(a) Need for project. In determining the need for the proposed project, we consider the extent of the need for the services to be provided or the activities to be carried out by the proposed project, as evidenced by data on such phenomena as local labor market demand or occupational trends, or from surveys, recommendations from accrediting agencies, or tribal economic development plans.

(b) Significance. In determining the significance of the proposed project, we consider the following factors:

(1) The potential contribution of the proposed project toward increasing the understanding of educational needs, issues, or strategies for providing career and technical education to American Indians and Alaska Natives.

(2) The likelihood that the proposed project will result in system change or improvement in the applicant's educational program as evidenced by the types of training and activities identified in the project application.

(3) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the career and technical needs of the target population.

(c) Quality of the project design. In determining the quality of the design of the proposed project, we consider the following factors:

(1) The extent to which goals, objectives, and outcomes are clearly specified and measurable (e.g., identification of the requirements for each course of study to be provided under the project, the technical skill proficiencies to be taught and the industry-recognized standards or competency assessments to be used, including related training areas and a description of the industry certifications, credentials, certificates, or degrees that

students may earn; expected enrollments, completions, and student placements in jobs, military specialties, and continuing education/training opportunities in each career training area; the number of teachers, counselors, and administrators to be trained).

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs, as evidenced by the applicant's description of programs and activities that align with the target population's needs.

(3) The extent to which the design for implementing and evaluating the proposed project plans for and is likely to result in the development of information that will guide possible dissemination of information on project practices, activities, or strategies, including information about the effectiveness of the approach or strategies employed by the project, planned dissemination activities, the kind of practices, activities, or strategies to be disseminated, the target audience for the dissemination of such practices, activities, or strategies, and the proposed uses for such disseminated practices, activities, or strategies.

(4) The extent to which the proposed project will establish linkages with or will be coordinated with similar or related efforts, and with community, State, or Federal resources, where such opportunities and resources exist.

(d) Quality of project services. In determining the quality of the services to be provided by the proposed project, we consider the following factors:

(1) The extent to which the training or professional development services to be provided by the proposed project would be of sufficient quality, intensity, and duration to lead to improvements in practice among the project staff and instructors, including the extent to which the proposed training and professional development plans address ways in which learning gaps will be addressed and how continuous review of performance will be conducted to identify training needs.

(2) The extent to which the services to be provided by the proposed project will create opportunities for students to receive an industry-recognized credential; become employed in high-skill, high-wage, and high-demand occupations; or both.

(3) The extent to which the services proposed in the project will create opportunities for students to acquire

technical skill proficiencies, industry certifications, or the skills identified by State or industry-recognized career and technical education programs or professions. In describing the services, there must be a clear link between the services and the skill proficiencies, industry certifications, credentials, certificates, or degrees that students may earn.

(e) Quality of project personnel. In determining the quality of project personnel, we consider the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on color, national origin, gender, age, or disability.

(2) The qualifications, including relevant training, expertise, and experience, of the project director, key personnel, and project consultants.

(3) The extent to which the project will use instructors who are certified to teach in the field in which they will provide instruction.

(f) Adequacy of resources. In determining the adequacy of resources for the proposed project, we consider the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization(s) and the tribal entity or entities to be served.

(2) The extent to which the budget is adequate and costs are reasonable in relation to the objectives of the proposed project.

(3) The relevance and demonstrated commitment (e.g., through written career and technical education agreements, memoranda of understanding, letters of support and commitment, or commitments to employ project participants, as appropriate) of the applicant, members of the consortium, local employers, or tribal entities to be served by the project.

(4) The potential for continued support of the project after Federal funding ends.

(g) Quality of the management plan. In determining the quality of the management plan for the proposed project, we consider the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities,

timelines, and the milestones and performance standards for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(h) Quality of the project evaluation. In determining the quality of the evaluation, we consider the following factors:

(1) The extent to which the methods of evaluation proposed by the grantee are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and the Government Performance and Results Act of 1993 (GPRA) performance measures, and will produce quantitative and qualitative data, to the extent possible.

(3) The extent to which the methods of the evaluation include processes that consider the validity and integrity

of data collection and analysis; accessibility of appropriate and timely data; accurate descriptions of performance; collection processes that yield unbiased, unprejudiced, and impartial data results; and the extent to which representation of the data clearly communicates an accurate picture of performance.

(4) The extent to which the methods of evaluation will provide performance feedback and continuous improvement toward achieving intended outcomes.

(5) The quality of the evaluation to be conducted by an external evaluator with the necessary background and technical expertise to carry out the evaluation.

Additional Selection Factors

In accordance with the requirement in section 116(e) of the Act, we have included the following additional selection factors and propose to award additional points to any application addressing the following factors, as indicated. We are not soliciting public comment on the section 116(e) requirement but only on the way we are proposing to meet the requirement.

We propose to award--

(a) Up to 10 additional points to applications that propose exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled colleges or universities that--

(1) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary career and technical education; or

(2) Operate career and technical education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of career and technical education programs (20 U.S.C. 2326(e)).

We will determine final requirements, definitions, and selection criteria for NACTEP after considering responses to this notice and other information available to the Department. We will announce final requirements, definitions, and selection criteria for NACTEP in a notice in the Federal Register. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

This notice does not solicit applications. In any year in which we choose to use this proposed priority and one or more of these proposed requirements, definitions, and selection criteria, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these proposed requirements, definitions, and selection criteria based on a reasoned

determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

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Dated: November 15, 2012

Daniel J. Miller, Executive Officer,
Delegated Authority to Perform the
Functions and Duties of the
Assistant Secretary for Vocational
and Adult Education.

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